

JAN 22 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALI BASRAEI,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 06-70598

Agency No. A97-242-798

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 14, 2008<sup>\*\*</sup>

Before: HALL, O’SANNLAIN, and PAEZ, Circuit Judges.

Ali Basraei, a native and citizen of Iran, petitions for review of the order of the Board of Immigration Appeals (“BIA”) that affirmed the Immigration Judge’s (“IJ”) denial of his application for asylum, withholding of removal, and relief

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), and we deny the petition for review.

The record does not compel the conclusion that the untimely filing of the asylum application should be excused. *See* 8 C.F.R. § 208.4(a)(5). Accordingly, Basraei is statutorily ineligible for asylum.

Substantial evidence supports the IJ’s and BIA’s decision that Basraei failed to establish that his experiences in Iran rose to the level of past persecution. *See Khourassany v. INS*, 208 F.3d 1096, 1100-01 (9th Cir. 2000). Further, the record does not compel a finding that it is more likely than not that Basraei will be persecuted on account of a protected ground if he returns to Iran. *See Hakeem*, 273 F.3d at 816-17. We therefore conclude that substantial evidence supports the IJ’s and BIA’s decision that Basraei failed to establish eligibility for withholding of removal. *See id.*

Finally, substantial evidence also supports the IJ’s and BIA’s decision that Basraei has not shown that it is more likely than not that he would be tortured if he returns to Iran. *See Singh v. Ashcroft*, 351 F.3d 435, 443 (9th Cir. 2003).

**PETITION DENIED.**